

REMARKS/ARGUMENTS

Claims 1, 3-9, 12-15 and 18-23 are currently pending in the above-identified application. These claims were each rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement, as the Examiner contends that the previous amendment added new matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention at the time the application was filed.

Specifically, the Examiner is objecting to the insertion of the phrase “comprising at least 50% by weight of units derived from polypropylene” to further clarify “propylene polymer” used in each of claims 1, 18, 19, and 22. In a previous response, the applicants directed the Examiner to page 6, lines 21-23 of the specification for explicit support for this language; however, the Examiner stated that “a careful review of that portion of the Specification shows that that particular paragraph is a discussion of the outer layer and not a non-surface layer”. Applicants respectfully contest this assertion.

First of all, the Examiner has not supported the conclusion that this paragraph is limited to the outer layers by citing any specific language which occurs in the specification. As such it is difficult to determine which particular phrase may have confused the Examiner.

More importantly, however, a careful reading of the specification actually leads to the opposite conclusion. First of all, it is clear from the claims as filed as well as the summary of the invention statements (see for example, page 3, line 35, page 4, line 13, or page 4, line 33) that propylene polymer is a required component in the invention as contemplated at the time of filing. Yet, no section within the specification discusses polypropylene except for the cited paragraph. Thus it seems apparent that this paragraph has to be referring to any propylene polymer used in the invention and not only to propylene polymer in the outer layer, which is not even required in the invention.

Secondly, note also that this paragraph refers to additional polymers such as styrenic block copolymers, EPDM rubber, polyurethanes, polyethers and polyamides.

As not all of these materials are suitable for outer layers, it is apparent that this paragraph must be referring to more than just outer layers.

Additionally note that the particular sentence in question expressly refers to “propylene polymers useful in this invention”, and does not limit it to “propylene polymers useful in the outer layer”. It is improper to interpret such an unambiguous statement of broad applicability to limit it to an optional component absent clear evidence to the contrary.

Note also the Examples, in which each and every use of “propylene polymer” is a polymer comprised at least 50% of propylene monomer units, even though the “propylene polymer” is always a core layer (i.e. not an outer layer). For the sake of argument, it is respectfully submitted that even if there was any confusion as to the applicability of the “comprising at least 50% by weight of units derived from propylene” language in the specification, a person of ordinary skill in the art would understand from the Examples that it was not limited to the outer layer as suggested by the Examiner.

Moreover, it is respectfully submitted that a person of ordinary skill in the art would assume that “propylene polymer” as used in the claims would mean polymer predominantly derived from propylene monomer, even without explicitly reciting this. As the Examiner cited a reference (US 5,907,943 to Eichbauer) which included the possibility of having minor amounts of units derived from propylene as a comonomer, it seemed easier to add the objected-to language to the claim to expressly distinguish this, particularly given the support in the specification as filed.

As the rejection under 35 USC § 112, first paragraph is improper, it is respectfully requested that the last office action be withdrawn, as well as the status of being under final rejection.

Respectfully submitted,

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